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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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			ART UNIT 3693	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/810,061	Applicant(s) LAURENT ET AL.	
	Examiner Ed Baird	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/07/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1- 21 are pending in this application. Claims 1-21 are rejected under 35 U.S.C. 112, and 103.

Specification

1. Applicant cooperation is requested in correcting any error of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. **Claim 1** recites the limitations:

- rendering said plurality of **potentially suitable derivative contracts** displayable in a first data section of a computer window on a computer display screen for viewing; and
- simultaneously rendering **user-specific forecast data** displayable in a second data section of said computer window. . .

It is unclear as to the definition of the word render. For the purposes of examination, "to render" will be interpreted to mean "to display".

5. **Claim 1** also recites the limitations:

- potentially suitable derivative contracts

The term "potentially suitable derivative contracts" is a relative term which renders the claim indefinite. The term "potentially suitable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

For the purposes of examination, the term "potentially suitable" will be interpreted to be not further limiting. Appropriate correction is required.

6. **Claim 16** recites the limitations:

- rendering said plurality of **available derivative contracts** displayable in a first panel of a computer window on a computer display screen;
- simultaneously rendering **aggregated forecast data** displayable in a second data section of said computer window . . .

It is unclear as to the definition of the word render. For the purposes of examination, "to render" will be interpreted to mean "to display". Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1-4, 6-9, 14-16, and 19-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 2002/0069155) in view of **Haigh** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002. Vol. 22, Iss. 12; pg. 1205).

9. Regarding **claim 1**, **Nafeh** teaches:

- **receiving capacity release data** from a plurality of carriers, said capacity release data pertaining at least to said two modes of transportation;
- **bundling capacity releases** in accordance with a **geographic** bundling criterion, thereby **creating** a plurality of available **derivative contracts**;
- **receiving a derivative purchase request** from said first user for capacity between said first location and said second location, said **derivative purchase request** having contract requirements that specify at least a shipment **volume** and a **performance time**;
- **obtaining** from said plurality of derivative contracts a plurality of potentially suitable derivative contracts that satisfy said **contract requirements**;
- **selecting** a subset of said plurality of potentially suitable derivative **contracts** to satisfy said **derivative purchase request**, said subset including at least a first derivative contract for a first mode of said two transportation modes and a second derivative contract for a second mode of said two transportation modes, said two transportation modes represent two from a set of air mode, sea mode, rail mode, and truck mode;

Nafeh discloses an invention which includes methods and apparatus, to innovate trading of futures securities. This invention includes futures contracts tailored to specific clienteles; the notion of tickets and coupons as tradable futures contracts; the notion of redeemable bundles; and notion of realization of the futures market on the Internet; the apparatus of an Internet-based trading interface and engine; the notion of cookie-cutter futures electronic Internet-based

futures markets for each security; the feature of maximal reliance on the Internet; and the business concept of "profitability without the need for high trading volume." [Abstract].

Nafeh discloses his computer-network based system as having an interactive interface that may be configured to enable anyone who accesses the platform to apply for a new account and to view data and news related to activity within markets within the platform [0036]. Examiner notes viewing data and news related to activity within markets indicates receiving capacity release data as applied to Applicant's disclosure. The system enables transactions relating to bundles of futures contracts, where each bundle includes at least two futures contracts, each of which corresponds to one of at least two future possible outcomes of a phenomenon at a time of maturity of the contracts [paragraph 0037]. Examiner interprets bundles of futures contracts as Applicant's bundling capacity releases.

Nafeh notes geographic diversification [paragraph 0006] and applies his invention to traders that are geographically dispersed [paragraph 0021]. Examiner interprets this application as Applicant's geographic bundling criterion.

Nafeh discloses creating and managing markets for risk hedging contracts having "minimal" transaction costs so that a minimum market size or trading volume is not necessary for efficiency, practicality or viability [paragraph 0028]. Examiner interprets managing markets to include Applicant's selection of potentially suitable derivative contracts.

Nafeh further teaches:

- rendering said plurality of potentially suitable derivative contracts displayable in a first data section of a computer window on a computer display screen for viewing; and
- simultaneously rendering user-specific forecast data displayable in a second data section of said computer window, said user-specific forecast data pertaining to demand forecasts by shippers between said first location and said second location, said user-

specific forecast data does not include forecasts associated with any shipper that has not expressed a prior implicit or explicit authorization for said first user to view their forecast data.

Nafeh discloses an Executive Summary Page for each contract bundle which displays real time quotes for the best bid and offer for each contract in each outstanding series of the contract bundle [paragraph 0466]. Examiner interprets **displaying real time quotes for the best bid** Applicant's rendering (displaying) potentially suitable derivative contracts.

Nafeh's Executive Summary Page also shows the expiration date for each outstanding series, the payout criterion for each contract, and the current rate, level, or value of the underlying. Examiner interprets expiration dates, the payout criterion, and current values to be indicative of Applicant's rendering (displaying) user-specific forecast data.

Nafeh does not specially disclose trading futures options in relation to transportation. However, **Haigh** discloses Baltic International Freight Futures Exchange (BIFFEX) which trades a derivative contracts and freight futures used for hedging uncertainty in international trade [Abstract and 1st paragraph under Introduction].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include derivative contracts and freight futures as taught by **Haigh** because it allows individuals involved in the freight industry to efficiently monitor variable costs related to moving goods between several locations.

10. Regarding **claims 2 and 3**, the limitations:

- said first user is simultaneously a shipper and a forwarder, and
- first user is a forwarder and not a shipper

are statements of intended use of the invention. As per MPEP 7.37.09: a recitation of the intended use of the claimed invention must result in a structural difference between the

claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Since the statements of intended use do not further limit the claims, claims 2 and 3 are rejected for the same reasons as claim 1.

11. Regarding **claim 4**, **Nafeh** and **Haigh** teach all the items of claim 2, the claim upon which it depends. **Nafeh** also teaches the limitations:

- user-specific forecast data includes a portion of a total volume forecast from a first shipper, and

Nafeh discloses Contact Markets in consisting of bundles of contracts [0119]. He demonstrates queuing of limit orders by priority including price per contract, number of contracts offered, time order was entered, and a mechanism for communicating market status information to traders. This includes information about the status of the market, including the price and **volume information of recent trades**, and the best limit prices and quantities in the limit buy and sell queues [paragraph 0123 to 0131]. Examiner interprets volume information as including a portion of Applicant's total volume forecast.

Nafeh does not teach:

- said total volume forecast represents a total volume of shipping required by said first shipper between "locations during a time frame specified in contract requirements"

However, **Haigh** teaches using hedge-ratio simulations using out of sample data. For each trader model and each econometric methodology, a forecast is made of the hedge for each week using the out-of-sample data [page 5 last paragraph]. Examiner interprets **hedge forecast** for each week as representing Applicant's forecast during a time frame specified.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include forecasting using **out-of-sample data** as taught by **Haigh** because out-of-sample forecasts are designed to provide a more accurate assessment of hedging performance as noted by **Haigh** [page 5 last paragraph].

12. Regarding **claim 6**, the limitation in accordance to a geographic restriction is addressed by **Nafeh** [paragraph 0006] as discussed in the rejection of claim 1.

13. Regarding **claim 7**, **Nafeh** and **Haigh** teach all the items of claim 4, the claim upon which it depends. The limitation:

- portion is limited in accordance to a mode restriction criterion (i.e. air, sea, rail or truck) is a statement of intended use of the invention as discussed in the rejection of claims 2 and 3, above. Since the statement of intended use does not further limit the claim, this claim is rejected for the same reasons as claim 4, the dependent claim.

14. Regarding **claim 8 and 9**, **Nafeh** and **Haigh** teach all the items of claim 4, the claim upon which they depend. The limitations:

- derivative purchase request represents futures purchase request (claim 8), and
 - said derivative purchase request represents option purchase request (claim 10)
- are not further limiting because the terms **derivatives** include **futures** and **options**, i.e. futures and options are both derivatives. Since this statement does not further limit the claim, this claim is rejected for the same reasons as claim 4, the claim upon which they depend.

15. **Claims 14 and 15** are substantially similar to claim 8 and 9, respectively. Therefore, they are rejected for the same reasons.

16. **Claim 16** is substantially similar to claim 1 with the added limitation of:

- a number of derivative contracts in said plurality of available derivative contracts being smaller than a number of capacity releases represented by said capacity release data

Haigh discloses estimating hedge ratios in isolation tend to overestimate the number of futures contracts required to hedge the cash position [page 2, 1st paragraph]. Examiner interprets number of futures contracts as representing Applicant's number of derivative contracts.

17. Regarding **claim 19**, **Nafeh** and **Haigh** teach all the items of claim 16, the claim upon which it depends. **Nafeh** further teaches the limitation:

- said capacity releases are further bundled in accordance with a time frame criterion to create said plurality of available derivative contracts.

Nafeh discloses that his computer-network based system enables transactions relating to sets of individual futures contracts which do not form a complete bundle [paragraph 0040]. This system facilitates splitting one contract into several separately traded contracts or recombining several contracts into one contract at any given time according to the market's authority. Examiner interprets this time as equivalent to Applicant's time frame criterion. Examiner interprets splitting one contract into several separately traded contracts or recombining several contracts as Applicant's creating a plurality of available derivative contracts.

18. **Claims 20 and 21** are substantially similar to claim 14 and 15, respectively. Therefore, they are rejected for the same reasons.

19. Claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 20020069155) in view of **Haigh et al** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002,

Vol. 22, Iss. 12; pg. 1205) in further view of **Tower** ("Mega-ships drive freight's future"; [5 Edition], Journal of Commerce, New York, Oct 22, 1998. pg. 1.B)

20. Regarding **claim 5**, **Nafeh** and **Haigh** teach all the items of claim 4, the claim upon which it depends. **Nafeh** and **Haigh** do not teach also teach the limitations:

- portion is limited in accordance to a lane restriction criterion.

However, **Tower** teaches the need for greater space for larger ships: deeper harbor water needed for the greater drafts of vessels [Abstract]. **Tower** further discloses this need along certain **converging trade lanes** [page 2, 6th paragraph]. Examiner interprets this **need along converging trade lanes** as representing Applicant's lane restriction.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include limiting certain **converging trade lanes** as taught by **Tower** because **converging trade lanes** may generate shipping hubs and thus would effect shipping/ transport costs throughout a particular region, **Tower** [page 2, 6th paragraph].

21. Claim 10 and 17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 20020069155) in view of **Haigh et al** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002. Vol. 22, Iss. 12; pg. 1205) in further view of **Batchelor** ("Transport futures to be traded on the internet; [London edition], Financial Times, London (UK): Sep 11, 1997. pg. 30)

22. Regarding **claims 10 and 17**, **Nafeh** and **Haigh** teach all the items of claim 1 and 16, the claims upon which they depend, respectively.

Batchelor teaches:

- computer window is implemented via an Internet Browser

Batchelor discloses this in [Abstract].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include computer window is implemented via an Internet Browser as taught by **Batchelor** because a transport futures exchange accessible via the internet would help solve some planning problems faced by companies who ship goods around the world because it makes trading more convenient and pricing of futures would be based on real-time conditions.

23. Claim 11-13, and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 20020069155) in view of **Haigh et al** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002. Vol. 22, Iss. 12; pg. 1205) in further view of **Scheer** (USPub. No. US 2002/0138358).

24. Regarding claim 11, **Nafeh** and **Haigh** teach all the items of claim 1, the claim upon which it depends. **Nafeh** and **Haigh** do not teach the limitations:

- user-specific forecast data includes self-assessed qualitative ratings by said shipper, said self-assessed qualitative ratings being performed using at least four of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

Scheer discloses a method for selecting a fulfillment plan for moving an item within a supply chain [Abstract]. He further discloses a supply chain management system and method which would allow companies to operate an entire supply chain on a "just in time" basis without requiring those companies to keep an excessive level of product safety stock on hand [paragraph 0023]. Examiner interprets **allowing companies to operate an entire supply**

chain as representative of Applicant's **self-assessed qualitative ratings**. Examiner interprets **operating a supply chain on a "just in time" basis** as representative of Applicant's manufacturing readiness.

The supply chain management system includes a database of forecast data [paragraph 0024], which may be comprised of the following:

- Expected **consumption rates** based on historical data [paragraph 0025]
- Deterministic **demand** data [paragraph 0026]

Examiner interprets **consumption rates** as representing Applicant's capacity.

Scheer also considers excess inventory in regards to stocking levels for a particular **location**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **supply chain management system and method** as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to the supply and demand in the freight and transport industries.

25. Regarding **claim 12**, **Nafeh**, **Haigh** and **Scheer** teach all the items of claim 11, the claim upon which it depends. **Nafeh** also teaches the limitations:

- displaying data pertaining to said first purchased derivative contract along with linkage data between a first component segment covered by said first purchased derivative contract and a second component segment covered by a second purchased derivative contract, said first component segment and said second component segment representing component segments of a single end-to-end shipping order.

Nafeh discloses his Executive Summary Page for each contract bundle which displays real time quotes for the best bid and offer for each contract in each outstanding series of the

contract bundle [paragraph 0466]. The Executive Summary Page also shows the expiration date for each outstanding series, the payout criterion for each contract, and the current rate, level, or value of the underlying. The Executive Summary Page allows the member to hyperlink to the rules describing the contract bundle and contracts, charts showing the trading history of all the contracts, and a glossary of terms related to the contract bundles, contracts, and the underlying. Examiner interprets to **hyperlink** to the rules describing the contract bundle and contracts,, etc. as Applicant's displaying linkage data.

26. Regarding **claim 13**, **Nafeh**, **Haigh** and **Scheer** teach all the items of claim 12, the claim upon which it depends. **Nafeh** also teaches:

- enabling said first user to trade said first purchased derivative contract in an adjustment market after said expiration.

Nafeh discloses in his invention a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [paragraph 0035]. Examiner interprets a prospective trader as Applicant's first user.

27. **Claim 18** is substantially similar to claim 11 (aggregate forecast data being equivalent to user forecast data - claim 11), and is therefore rejected for the same reasons.

Cited Prior Art

28. The prior art of record and not relied upon is considered pertinent to Applicant's disclosure.

- **Wilson**: "Air freight: Poised for expansion", Transportation & Distribution, Cleveland, Aug 1997. Vol. 38, Iss. 8; pg. 43, 5 pgs.). This article deals with forecast in worldwide air freight.
- **Foster**: "Air freight weathers the storm", Logistics Management and Distribution Report, Radnor, May 1999. Vol. 38, Iss. 5; pg. 55). This article discusses how shippers may want to trade off higher transportation costs for less risk.
- **Bains et al** (US Patent No. 6,625,584).
- **Lancaster et al** (USPub. No. 2002/0133456)
- **Lerner** (USPub. No. 2002/0120555)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

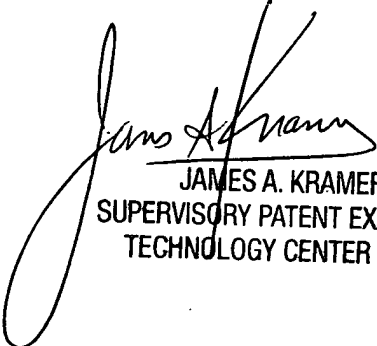
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available

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